## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

JOHN D. CERQUEIRA,

Plaintiff,

v.

Civil Action No: 05-11652-WGY

AMERICAN AIRLINES, INC.,

Defendant.

## SUPPLEMENTAL DECLARATION OF DAVID S. GODKIN IN SUPPORT OF PLAINTIFF'S MOTION FOR ATTORNEYS' FEES AND COSTS

- I, David S. Godkin, depose and state the following:
- 1. I am a partner with the law firm Birnbaum & Godkin, LLP, 280 Summer Street, Boston, Massachusetts 02210. Birnbaum & Godkin, LLP and the Public Citizen Litigation Group are co-counsel for the plaintiff, John D. Cerqueira, in this case.
- 2. On January 30, 2007, Mr. Cerqueira filed a motion for attorneys' fees and costs. Doc. 111. That motion sought fees and costs through the last day of the trial. I submit this Affidavit in support of Mr. Cerqueira's Supplemental Motion for Attorneys' Fees and Costs, in which Mr. Cerqueira requests fees and costs from the conclusion of the trial on January 12, 2007 through February, 2007.
- 3. Since the conclusion of trial, Birnbaum & Godkin, LLP has devoted 128.25 attorney and paralegal hours to this case. A detailed description of the hours claimed by Birnbaum & Godkin, LLP is attached to this Affidavit as Exhibit A. All of the entries on Exhibit A were contemporaneously recorded and copied from the actual time records generated by the timekeeping software used by Birnbaum & Godkin, LLP. As shown on Exhibit A, these hours

were devoted to work related to preparing Mr. Cerqueira's fee petition and supporting documents, responding to defendant's renewed motion for JNOV, and responding to defendant's motion for a new trial or for remittitur.

4. The actual billing records are not submitted herewith because I have exercised billing judgment and am seeking fees for less than all of the hours spent. I have only included time that was absolutely necessary to the case, and have eliminated duplication.

### SUMMARY OF HOURS CLAIMED

5. The following chart summarizes the hours claimed by the Plaintiff for this case, through the end of February, 2007:

<u>Individual</u>	Requested Hours
Michael T. Kirkpatrick	889.55
David S. Godkin	384
Darleen Cantelo	314.25
Erica Abate Recht	200
David Becker	42.50
Jessica Edgerton	41
G. Brian Vogler	21.50
Dawn Perlman	15
Kimberly Nuzum	6.5
Philip Longo	6
Adina Rosenbaum	4.8
Allison Zieve	2.8
Brian Wolfman	5.6
TOTAL	1933.5

### **COSTS**

6. In addition to taxable costs, the plaintiff has sought an award of costs for expert witnesses fees, travel, computerized legal research (Westlaw), courier, postage, fax, and FedEx. These non-taxable recoverable costs, through December 31, 2006 were itemized in my

Declaration filed on January 30, 2007 (Doc. 113). I have set forth below an updated summary of non-taxable recoverable costs through February 28, 2007:

Expert witness fees	\$11,192.23
Travel	5,936.39 <sup>2</sup>
Computerized research (Westlaw)	2,955.71
Courier	327.28
FedEx	47.24
Postage	42.71
Fax	16.00
TOTAL	\$20,517.56

Signed under penalties of perjury this 1<sup>st</sup> day of March, 2007.

/s/ David S. Godkin
David S. Godkin

<sup>&</sup>lt;sup>1</sup> This amount includes \$2,445 charged by Dr. Faulk for his time spent in connection with his deposition for use at trial, \$1,200 charged by Dr. Blumenthal for his time spent in connection with his deposition for use at trial, and \$7,547.23 charged by Mr. Douglas Laird, Plaintiff's expert witness on security issues.

<sup>&</sup>lt;sup>2</sup> This amount includes my travel expenses to Ft. Lauderdale in connection with the depositions of Dr. Blumenthal and Faulk for use at trial, and Mr. Kirkpatrick's travel expenses to Reno for Mr. Laird's deposition, and to Boston for Mr. Cerqueira's deposition, a mediation with Magistrate Judge Dein, the hearing on summary judgment motions, the Final Pretrial Conference, Trial, and the hearing on defendant's motions for JNOV and for a new trial/remittitur.

EXHIBIT A

## BIRNBAUM & GODKIN LLP SUPPLEMENTAL FEE CHART

Date	on "	Hours Rate Total	ale .		Lawyer
	ttorneys fees motion; calls re: affidavits for attorneys' fees;				С
Jan 16/2007	review Bill of Costs provisions	1.50	390.00	585.00 God	kin, David S.
Jan 17/2007	Draft attorneys' fees memorandum	0.75	150.00	112.50 Can	telo. Darleen Fo
Jan 17/2007	Attorney's fees motion; review of time records; telephone call from H. Friedman.	3.25	390.00	1267.50 Godkin, David S.	1267.50 Godkin, David S.
Jan 18/2007	Research re: enhancement of lodestar figure	00.9	150.00	900.00 Can	900.00 Cantelo. Darleen FC
	Review FRCP re: post trial motions, execution, stay, bond requirements, etc.; draft Affidavit in				-C
Jan 18/2007	Support of fee application.	3.50	390.00	1365.00 Godkin, David S.	1365.00 Godkin, David S
Jan 19/2007	Draft attorneys' fees memorandum	1.00	150.00	150.00 Can	elo. Darleen Fa
	Review case law re: taxable costs; prepare Affidavit in support of Attorneys' Fees motion;				S52
Jan 19/2007	review American Airlines JMOL motion	2.50	390.00	975.00 God	kin. David S.
Jan 19/2007	Work related to Fee Petition.	5.00	100.00	500.00 Vogler. G. Brian	er. G. Brian
Jan 22/2007	Memorandum re: attorneys' fees	00.9	150.00	900.00 Can	14
	Email M.Fitzhugh re: post-trial motions, motion to extend time; review and comment on draft				
Jan 22/2007	motion; attention to Bill of Costs	1.50	390.00	585.00 God	kin. David S. O
Jan 22/2007	Work related to Fee Petition.	1.00	100.00	100.00 Vogl	100.00 Vogler, G. Brian
Jan 23/2007	Memorandum re: attorney's fees; research re: reasonable attorney's fees awards.	4.00	150.00	600.00 Can	elo. Darleen F
	Telephone to M.Kirkpatrick re: fee petition; Bills of Costs; Fee Affidavits; telephone to				ne
Jan 23/2007	H.Friedman	4.50	390.00	1755.00 Godkin. David S.	vin. David S. u
Jan 24/2007	Memorandum re: attorney's fees; research re: reasonable attorney's fees awards.	4.00	150.00	600.00 Can	elo. Darleen FA
	Attention to Bill of Costs, Fee Affidavits; review and revise PC LG affidavits; J.Savage,				2-
Jan 24/2007	S.Lewis, H.Friedman affidavits	3.00	390.00	1170.00 Godkin. David	cin. David S. 5
	Memorandum re: attorney's fees; research re: reasonable attorney's fees awards; research re:				
Jan 25/2007	state enhancement law.	4.00	150.00	600.00 Cant	elo, Darleen F.T.
	Draft and revise Memorandum in Support of Motion for Attorneys' Fees and Costs; review				lec
Jan 25/2007		3.00	390.00	1170.00 Godkin, David S.	cin, David S.
Jan 26/2007	Edits to memorandum for attorney's fees; research re costs under s. 1988 and s. 1920.	3.00	150.00	450.00 Cantelo,	Darleen F
Jan 26/2007	Revise memo in support of attorney's fees motion; review Judge Zobel Sarsfield decision.	2.25	390.00	877.50 Godkin.	David S
Jan 28/2007	Edit fee memorandum; miscellaneous work re: filing.	0.00	150.00	900.00 Cantelo,	elo, Darleen F.O.
	Review memo in support of motion for attorney's fees; affidavit in support, Bill of Costs,				
Jan 29/2007	supporting documentation.	5.25	390.00	2047.50 Godkin, David S.	in, David S. +
Jan 30/2007	Read American Airlines' Motion for JNOV and Motion for New Trial.	1.75	150.00	262.50 Cantelo,	Darleen F.
-	Review American Airlines post-trial motions; finalize attorney's fees motion and supporting				ge
Jan 30/2007	papers, and Bill of Costs and supporting papers.	3.25	390.00	1267.50 Godkin, David S.	in, David S. N
Jan 31/2007	Call with DSG and M. Kirkpatrick re: American Airline's post-trial motions.	0.25	150.00	37.50 Cant	Щ
Jan 31/200/	Conference call with M. Kirkpatrick and DFC re: oppositions to post-trial motions.	0.75	390.00	292.50 Godkin, David S.	in, David S. 4

# BIRNBAUM & GODKIN LLP SUPPLEMENTAL FEE CHART

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lons and oppositions; work on opposition 3.00 3.00 3.00 3.00 3.00 3.00 3.00 3.0	ions and oppositions; work on opposition  3.00  3.00  2.00  390.00  2.00  390.00  2.00  390.00  1.75  390.00  1.50.00  and revise draft briefs; review AA  1.50  390.00  w trial motions; email comments to M.  1.25  390.00  1.00  390.00  1.00  390.00  390.00  1.00  390.00  390.00  1.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  390.00  and reply brief re: post trial motions.  390.00	der re: briefing schedule, argument; work on oppositions to post trial motions	1.00	390.00	390.00	David S.	se '
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ew trial.       2.75       150.00       412.50       Cantelo, Darleen David S.         AA reply brief re: post trial motions.       0.75       390.00       292.50       Godkin, David S.         a damages       1.00       390.00       75.00       Cantelo, Darleen Darleen Darleen S.         a damages       1.00       390.00       390.00       Godkin, David S.         ental motion for JNOV and supporting       1.50       390.00       585.00       Godkin, David S.         ement to fees for post trial motions and shide of costs and affidavit.       8.00       150.00       1200.00       Cantelo, Darleen S.         anded bill of costs and affidavit.       3.50       390.00       1365.00       Godkin, David S.         TOTAL:       \$34,837.50	ew trial.       2.75       150.00       412.50       Cantelo, Darleen Sodkin, David Supporting         AA reply brief re: post trial motions and ental motion for JNOV and supporting       0.75       390.00       75.00       Cantelo, Darleen Sodkin, David Supporting         In Ement to fees for post trial motions and added bill of costs and affidavit.       8.00       150.00       1200.00       Cantelo, Darleen Sodkin, David Supporting         In Ement to fees for post trial motions and sinded bill of costs and affidavit.       8.00       150.00       1200.00       Cantelo, Darleen Supporting         In Ement to fees for post trial motions and sinded bill of costs and affidavit.       8.00       150.00       1200.00       Cantelo, Darleen Supporting         In Ement to fees for post trial motions and sinded bill of costs and affidavit.       8.00       150.00       1200.00       Cantelo, David Supporting         In Ement to fees for post trial motions and sinded bill of costs and affidavit.       8.00       150.00       1200.00       Cantelo, David Supporting	I reply brief and preparing for e-filing; two calls with M. Wangeheim re: rule 7.1					2-:
AA reply brief re: post trial motions.         0.75         390.00         292.50         Godkin, David S.           e damages         1.00         390.00         75.00         Cantelo, Darleen David S.           ental motion for JNOV and supporting         1.50         390.00         585.00         Godkin, David S.           ement to fees for post trial motions and and ement to fees for post trial motions and side of the feet for post trial motions and side of trial motions and s	AA reply brief re: post trial motions. 0.75 390.00 292.50 Godkin, David S. 0.50 150.00 75.00 Cantelo, Darleen 1.00 390.00 390.00 Godkin, David S. 0.50 God	rence; reading AA's reply brief re: JNOV and new trial.	2.75	150.00	412.50	Cantelo. Darleen F	2
e damages       0.50       150.00       75.00       Cantelo, Darleen         ental motion for JNOV and supporting       1.50       390.00       390.00       Godkin, David S.         1.50       390.00       585.00       Godkin, David S.         1.50       390.00       1657.50       Godkin, David S.         1.50       390.00       1200.00       Cantelo, Darleen         1.50       390.00       1365.00       Godkin, David S.         1.50       390.00       1365.00       Godkin, David S.         1.50       120.00       1365.00       Godkin, David S.	a damages       0.50       150.00       75.00       Cantelo, Darleen         ental motion for JNOV and supporting       1.50       390.00       390.00       Godkin, David S.         1.50       390.00       585.00       Godkin, David S.         1.50       390.00       1657.50       Godkin, David S.         1.50       150.00       1200.00       Cantelo, Darleen         1.50       390.00       1365.00       Godkin, David S.         1.50       390.00       1365.00       Godkin, David S.         1.50       1365.00       Godkin, David S.	brief re: fees; motion for leave to reply; review AA reply brief re: post trial motions.	0.75	390.00	292.50	Godkin, David S.	
ental motion for JNOV and supporting  1.50 390.00 390.00 Godkin, David S.  1.50 390.00 585.00 Godkin, David S.  4.25 390.00 1657.50 Godkin, David S.  ement to fees for post trial motions and 8.00 150.00 1200.00 Cantelo, Darleen 3.50 390.00 1365.00 Godkin, David S.  TOTAL: 128.25 TOTAL: \$34,837.50	ental motion for JNOV and supporting  1.50 390.00 390.00 Godkin, David S.  4.25 390.00 585.00 Godkin, David S.  4.25 390.00 1657.50 Godkin, David S.  8.00 150.00 1200.00 Cantelo, Darleen 3.50 390.00 1365.00 Godkin, David S.  TOTAL: 128.25 TOTAL: \$34,837.50	reply brief after leave to file granted	0.50	150.00	75.00	Cantelo, Darleen	Fil
ental motion for JNOV and supporting  1.50 390.00 585.00 Godkin, David S.  4.25 390.00 1657.50 Godkin, David S.  lement to fees for post trial motions and 8.00 150.00 1200.00 Cantelo, Darleen 3.50 390.00 1365.00 Godkin, David S.  TOTAL: 128.25 TOTAL: \$34,837.50	1.50   390.00   585.00 Godkin, David S.   4.25   390.00   1657.50 Godkin, David S.   4.25   390.00   1657.50 Godkin, David S.   8.00   150.00   1200.00 Cantelo, Darleen   3.50   390.00   1365.00 Godkin, David S.   TOTAL: \$34,837.50	w Philip Morris v. Williams decision re: punitive damages	1.00	390.00	390.00	Godkin, David S.	ec
1.50   390.00   585.00 Godkin, David S.	1.50 390.00 585.00 Godkin, David S.  4.25 390.00 1657.50 Godkin, David S.  8.00 150.00 1200.00 Cantelo, Darleen F.  8.00 150.00 1365.00 Godkin, David S.  TOTAL: \$34,837.50	re for hearing on motions; review AA supplemental motion for JNOV and supporting					0
4.25   390.00   1657.50 Godkin, David S.   160.00   1200.00 Cantelo, Darleen F.   128.25   1201.01   134,837.50   1201.01   134,837.50   1201.01   134,837.50   1355.01   134,837.50   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1365.01   1366.01   1	4.25   390.00   1657.50 Godkin, David S.   390.00   150.00   1200.00 Cantelo, Darleen F.   3.50   390.00   1365.00 Godkin, David S.   TOTAL: \$34,837.50		1.50	390.00	585.00		3/0
ntal Attorneys' fees motion; research entitlement to fees for post trial motions and 8.00 150.00 1200.00 Cantelo, Darleen F 150.00 1300.00 Cantelo, Darleen F 150.00 1365.00 Godkin, David S.	Ital Attorneys' fees motion; research entitlement to fees for post trial motions and 8.00 150.00 1200.00 Cantelo, Darleen F ital Attorneys' fees motion, affidavits; amended bill of costs and affidavit. TOTAL: 128.25 TOTAL: \$34,837.50	e for and attend hearing on post trial motions	4.25	390.00	1657.50	Sodkin, David S.	2
1200.00 Cantelo, Darleen Fortier Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  101 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  101 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  102 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  103 Attorneys' fees motion, affidavits; amended bill of costs and affidavit.  104 Attorneys' fees motion affidavits; amended bill of costs and affidavits.  105 Attorneys' fees motion affidavits.  105 Attorneys' fees motion affidavits.	8.00 150.00 1200.00 Cantelo, Darleen Fital Attorneys' fees motion, affidavits; amended bill of costs and affidavit. 3.50 390.00 1365.00 Godkin, David S. TOTAL: \$34,837.50	mental Attorneys' fees motion; research entitlement to fees for post trial motions and					/20
3.50 390.00 1365.00 Godkin, David S. TOTAL: \$34,837.50	3.50 390.00 1365.00 Godkin, David S.  TOTAL: 128.25 TOTAL: \$34,837.50	ition	8.00	150.00	1200.00	Darleen F	007
TOTAL: 128.25 TOTAL: \$34,837.50	TOTAL: \$34,837.50	_	3.50	390.00	1365.00	David S.	1
	age 3 of		128.25		TOTAL:		F

\$34,837.50				
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\$600.00	100.00	00.9	G. Brian Vogler	
\$8,400.00	150.00	56.00	Darleen F. Cantelo	
\$25,837.50	390.00	66.25	David S. Godkin	
Amount	Rate	Hours		